

## **REMARKS**

### ***Claims***

Claims 1-67 are pending in the application.

Applicants have added new claim 67 that incorporates the subject matter of claims 1, 4, 5, 6, and 7 with claims 44 and 56.

Applicants note that the Examiner has withdrawn the subject matter of claims 1-7 (in-part), 64 (in-part), 68 (in-part), 8-15, 18-20, 23-34, 41, 42, 46, 48, 53-57, 63 and 65.

### ***Restriction/Election***

Applicants confirm that Group I and that the species set forth in Example 32 were elected.

Applicants, however, dispute the statement explaining that the withdrawn “compounds are not within the elected invention, which are independent and distinct from the elected invention and do not have utility with the elected compound and are therefore withdrawn by way of restriction.” Applicants attest that the statement regarding the non-elected compounds not having utility with the elected compound is unsupported. Such a statement should not be made merely because Applicants made a provisional election of a species in accordance with the Examiner’s request.

Applicants request that the search be extended to cover the non-elected species recited in the Markush type-claim because no prior art has been found that renders the elected species anticipated or obvious (as detailed below). See M.P.E.P. 803.02.

### ***Rejoinder***

Applicants request rejoinder of the non-elected subject matter (claims 63 and 65) upon allowance of independent claim 1. Claims 63 and 65 relate to a method of using a compound according to claim 1.

### ***Claim Rejections-35 U.S.C. § 102***

The Office Action sets forth anticipation rejections based upon:

- 1) Chen et al. (EP 1097709), and
- 2) Dow et al. (WO 2000066522).

Applicants have carefully considered the rejections and provide the following comments.

Chen et al. (EP 1087709)

Claims 1-7, 16, 17, 21, 22, 35-40, 44, 45, 47, 49-52, 58, 60-62, 64, and 66 are rejected under 35 U.S.C. § 102(b) as being anticipated by Chen et al. (the Office Action indicates that this reference is EP 1087709 and EP 1097709, however, the PTO-892 form clarifies that the Chen reference is EP 1097709).

The Office Action explains that “Chen, et al. anticipates the instant invention of the compounds of Formula (I) wherein X and Y are hydrogen and either X or Y is a halogen, or (C<sub>1</sub>-C<sub>6</sub>) alkyl (Chen, et al., ¶ 0040, p. 2, l. 56), and R<sup>5</sup> is -O-CH<sub>2</sub>-pyridine optionally substituted with CH<sub>3</sub>; A is CR<sup>6</sup>R<sup>7</sup>-CR<sup>8</sup>R<sup>9</sup> and R<sup>6</sup> - R<sup>9</sup> are hydrogen; R<sup>1</sup> is -CH<sub>2</sub>-Phenyl; R<sub>2</sub> is CCCH<sub>3</sub>, (CH<sub>2</sub>)<sub>2</sub>CF<sub>3</sub>; and R<sup>3</sup> and R<sup>4</sup> are each hydrogen.”

The explanation in the Office Action that Chen describes a compound where “R<sup>3</sup> and R<sup>4</sup> are each hydrogen” fails to inherently or explicitly anticipate the rejected claims because independent claim 1 (and therefore the subsequent dependent claims) of the present application indicate that R<sup>4</sup> is selected from HO- or R<sup>14</sup>R<sup>15</sup>N-. Hence, Applicants request the rejection of the claims be withdrawn.

Dow et al. (WO 2000066522)

Claims 1-7, 35, 37, 47, 49-52, 58, 60, 62, 64, and 66 are rejected under 35 U.S.C. § 102(b) as being anticipated by Dow et al. (WO 2000066522).

The Office Action explains that “Dow, et al. anticipates the instant invention of the compounds of Formula (I) wherein X and Y are hydrogen and R<sup>5</sup> is -O-CH<sub>2</sub>-pyridine or -O-CH(CH<sub>3</sub>)-pyridine optionally substituted with CH<sub>3</sub>, halogen or methoxy; A is CR<sup>6</sup>R<sup>7</sup>-CR<sup>8</sup>R<sup>9</sup> and R<sup>6</sup> - R<sup>9</sup> are hydrogen; R<sup>1</sup> is -CH<sub>2</sub>-Phenyl, or C<sub>3</sub> alkyl, C<sub>5</sub> alkyl; R<sup>2</sup> is CCCH<sub>3</sub>, n-propyl, (CH<sub>2</sub>)<sub>2</sub>CF<sub>3</sub>, CF<sub>3</sub>, chloroethynyl, 3-methyl- 1-butyryl, 2-methylpropyl, 3-methylbutyl, 3-methyl 3-hydroxybutyl, 4-methyl pentyl, 3,3 dimethylbutyne, propanol, cyclopropylethyl, 3,3-dimethylbutyl, pentynyl, butynyl, methyl; and R<sup>3</sup> and R<sup>4</sup> are each hydrogen.”

The explanation in the Office Action that Dow describes a compound where “R<sup>3</sup> and R<sup>4</sup> are each hydrogen” fails to inherently or explicitly anticipate the rejected claims because independent claim 1 (and therefore the subsequent dependent claims) of the present application indicate that R<sup>4</sup> is selected from HO- or R<sup>14</sup>R<sup>15</sup>N-. Hence, Applicants request the rejection of the claims be withdrawn.

### ***Claim Objections***

Claims 17, 21, 22, 35-40, 43-45, 47, 49-52, 58-61 are objected to as being in improper form because multiple dependent claims can not depend from any other multiple dependent claims.

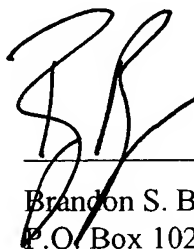
Applicants have amended the claims to obviate this objection.

### ***Conclusion***

In light of the foregoing, Applicants request allowance of the claims. The Examiner is invited to contact the undersigned attorney should any issues remain unresolved. If any additional fees are due in connection with the filing of this response, such as fees under 37 C.F.R. §1.16 or §1.17, please charge the fees to Deposit Account No. 19-1025. Any overpayment can be credited to Deposit Account No. 19-1025.

Respectfully submitted,

PFIZER, INC.

A handwritten signature in black ink, appearing to be 'BS', is written over a horizontal line.

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